

CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE

Preliminary Sixth Edition

1989

M.L. Friedland

and

Kent Roach

Faculty of Law

University of Toronto

Volume Two

Fundamental Principles of Criminal Liability

Storage
KF
9218
F7
1989
v.2

LAW LIBRARY

APR 2 1990

FACULTY OF LAW
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY
UNIVERSITY OF TORONTO

CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE

Preliminary Sixth Edition

1989

M.L. Friedland

and

Kent Roach

Faculty of Law

University of Toronto

Volume Two

Fundamental Principles of Criminal Liability



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

TABLE OF CONTENTS

Volume One

THE CRIMINAL PROCESS

1	INTRODUCTION TO THE CRIMINAL CODE	1
	Excerpt from <u>Studies in Strict Liability</u>	1
I.	Scheme of the Criminal Code	5
II.	The Criminal Code as Federal Legislation	5
	Excerpt from "Criminal Justice and the Division of Power in Canada"	5
	<u>Switzman v. Elbling</u>	9
III.	Codification: The Criminal As a Statute	11
	Excerpt from "The Criminal Law, 1867-1967"	11
	<u>Amato v. R.</u>	12
	<u>Frey v. Fedoruk</u>	13
	Note on the Common Law Offence of Contempt of Court	15
	<u>R. v. Heffer</u>	17
	<u>Papachristou et al v. City of Jacksonville</u>	21
	<u>R. v. Goulis</u>	24
	<u>R. v. Paré</u>	27
2	THE INVESTIGATION OF CRIME	33
	Excerpt from "Constitutionalizing Disrepute: Exclusion of Evidence After <u>Therens</u> "	33
I.	Confessions	38
	<u>Boudreau v. The King</u>	38

	<u>R. v. Wray</u>	39
	<u>Rothman v. R.</u>	44
	<u>Clarkson v. R.</u>	48
	<u>R. v. Manninen</u>	53
	<u>Miranda v. Arizona</u>	56
	Note on Questioning Suspects	58
II.	Entrapment	59
	<u>Amato v. R.</u>	61
	<u>R. v. Jewitt</u>	64
	<u>R. v. Mack</u>	65
	Excerpt from "Controlling Entrapment"	71
III.	Search, Seizure and Arrest	73
	<u>Hunter v. Southam</u>	73
	<u>U.S. v. Leon</u>	78
	<u>R. v. Strachan</u>	78
	Note on Search Powers and Reform	84
	<u>R. v. Collins</u>	86
	<u>R. v. LeBeau</u>	91
	Note on Arrest	96
IV.	Constitutional Restraints on the Investigation of Crime: A Case Study of Drunk Driving	100
	<u>R. v. Therens</u>	100
	<u>R. v. Thomsen</u>	101
	<u>R. v. Hufsky</u>	103
	<u>R. v. Dyment</u>	105

3	THE CRIMINAL TRIAL PROCESS	109
I.	The Donald Marshall Case	109
	Note on Appeals	109
	<u>R. v. Marshall</u> (1972)	110
	<u>R. v. Marshall</u> (1983)	117
II.	The Role of the Prosecutor and Defence Counsel	122
	<u>Boucher v. R.</u>	122
	Rules of Professional Conduct	123
	<u>R. v. Bourget</u>	123
	Note on Plea Bargaining	125
	<u>Adgey v. R.</u>	131
	Note on the Role of Defence Counsel	135
	Note on Ethics of Defence Advocacy	136
III.	Pre-trial Release	141
	<u>R. v. Thompson</u>	142
	<u>R. v. Bray</u>	145
	<u>R. v. Pugsley</u>	146
	<u>R. v. Kevork</u>	147
IV.	Classification of Offences	148
V.	The Preliminary Hearing	150
	<u>Patterson v. R.</u>	150
	<u>Caccamo v. R.</u>	153
	<u>R. v. Skocman</u>	155
VI.	Pre-Trial Publicity and Change of Venue	157
	<u>R. v. Adams</u>	157
	<u>R. v. Ebsary</u>	158

VII.	The Jury	160
	<u>R. v. Turpin and Siddiqui</u>	160
	Selecting the Jury	166
	<u>R. v. Favel</u>	166
	<u>R. v. Hubbert</u>	168
	<u>R. v. Zundel</u>	169
	Jury Unanimity	172
	<u>Latour v. R.</u>	172
	<u>R. v. Isaac</u>	173
	<u>Thatcher v. R.</u>	175
VIII.	Evidence and Argument Before the Jury	177
	<u>R. v. Salmon</u>	177
	<u>Avon v. R.</u>	178
	<u>R. v. Corbett</u>	181
IX.	Quantum and Burden of Proof	187
	Burden of Proof	187
	<u>Woolmington v. D.P.P.</u>	187
	<u>R. v. Shelley</u>	192
	<u>R. v. Oakes</u>	192
	<u>R. v. Whyte</u>	196
	<u>R. v. Godfrey</u>	200
	Quantum of Proof	203
	<u>R. v. Summers</u>	203
	<u>R. v. Hepworth and Fearnley</u>	204
	<u>R. v. Lachance</u>	205

X.	Trial within a Reasonable Time	208
	<u>R. v. Ebsary</u>	208
	<u>R. v. Conway</u>	209
4	THE LIMITS OF THE CRIMINAL LAW	216
	Excerpt from "The Wolfenden Report"	216
	Excerpt from "The Enforcement of Morals"	218
	Excerpt from "On Liberty"	223
	Excerpt from "The Function of Criminal Law"	223
	<u>Bowers v. Hardwick</u>	227
I.	Abortion	228
	<u>R. v. Bourne</u>	228
	<u>R. v. Morgentaler</u>	233
	Excerpt from "Crimes Against the Foetus"	247
II.	Hate Propaganda	248
	<u>R. v. Buzzanga and Durocher</u>	250
	<u>R. v. Zundel</u>	253
	<u>R. v. Keegstra</u>	259
	<u>R. v. Andrews</u>	263

Volume Two

FUNDAMENTAL PRINCIPLES OF CRIMINAL LIABILITY

5	THE CRIMINAL ACT: EXTERNAL CIRCUMSTANCES OF THE OFFENCE	267
	Excerpt from "Criminal Law"	267
	<u>R. v. Miller</u>	267
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	268
	<u>R. v. Corrier</u>	268
	<u>Fagan v. Commissioner of Metropolitan Police</u>	272
	<u>Bratty v. A.G. for Northern Ireland</u>	275
	<u>R. v. Larssonneur</u>	275
I.	Omissions	276
	Problem	276
	Excerpt from "A Penal Code Prepared by the Indian Law Commissioners"	276
	<u>People v. Beardsley</u>	279
	<u>R. v. Instan</u>	282
	<u>Commonwealth v. Cali</u>	284
	<u>R. v. Miller</u>	285
	<u>Horsley v. MacLaren</u>	286
	Excerpt from "Quebec Charter of Human Rights and Freedoms"	287
	Excerpt from "Medicine and the Law - Withholding Paediatric Medical Care"	288
	<u>R. v. Goulis</u>	288
	<u>R. v. Speck</u>	289
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	289

II.	Causation	290
	<u>R. v. Winning</u>	291
	<u>R. v. Smith</u>	293
	<u>People v. Lewis</u>	296
	<u>R. v. Kitching and Adams</u>	297
	<u>R. v. Malcherek</u>	298
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	298
	<u>R. v. Smithers</u>	298
	<u>R. v. Blaue</u>	300
	Excerpt from "Studies in Criminal Law"	301
	Excerpt from "Model Penal Code"	301
III.	Constructive Murder	302
	Excerpt from "From Felony Murder to Accomplice Felony Attempted Murder: The Rake's Progress Compleat?"	302
	<u>Commonwealth v. Moyer</u>	304
	<u>Commonwealth v. Redline</u>	306
	<u>Commonwealth v. Smith</u>	308
	<u>Pagett v. R.</u>	315
	Excerpt from "L.R.C. Working Paper 33, Homicide"	317
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	321
	<u>Vaillancourt v. R.</u>	322
	<u>R. v. Giff</u>	328
6	ATTEMPT AND RELATED PROBLEMS	331
I.	Mens Rea for an Attempt	331
	<u>Lajoie v. R.</u>	331

	<u>R. v. Ancio</u>	335
	<u>R. v. Logan</u>	339
II.	Actus Reus for an Attempt	342
	<u>R. v. Robinson</u>	342
	<u>D.P.P. v. Stonehouse</u>	346
	<u>R. v. Barker</u>	346
	<u>R. v. Cline</u>	350
	<u>R. v. Sorrell and Bondett</u>	353
	<u>Deutsch v. R.</u>	355
	Excerpt from "New Zealand Crimes Act 1961"	356
	<u>Davey v. Lee</u>	356
	<u>Balogh v. Crown Court at St. Albans</u>	356
	Excerpt from "New York Revised Penal Law"	356
	Excerpt from "A.L.I. Model Penal Code"	356
	Excerpt from "English Law Commission's Working Paper No. 50, Inchoate Offences"	356
	Excerpt from "English Criminal Attempts Act"	357
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	357
	Excerpt from "Should We Have a Law of Attempted Crime?"	358
	Problem	358
III.	Impossibility	359
	<u>R. v. Scott</u>	359
	<u>Booth v. State of Oklahoma</u>	360
	<u>R. v. Donnelly</u>	365
	<u>R. v. Smith (Roger)</u>	366
	<u>Partington v. Williams</u>	371
	<u>Director of Public Prosecutions v. Nock</u>	371

	<u>Detering v. R.</u>	372
	Excerpt from "English Criminal Attempts Act"	372
	<u>Anderton v. Ryan</u>	372
	<u>R. v. Shivpuri</u>	373
IV.	Other Forms of Involvement: Counselling, Conspiracy, Aiding and Abetting, etc.	374
	<u>R. v. Dungey</u>	374
A.	Counselling	375
	<u>R. v. McLeod</u>	375
	<u>R. v. Richard</u>	376
B.	Aiding and Abetting	377
	<u>R. v. Kulbacki</u>	377
	<u>R. v. Salajko</u>	379
	<u>Dunlop and Sylvester v. R.</u>	380
	<u>R. v. Popen</u>	381
	<u>R. v. Madigan</u>	382
	<u>Poitrass v. R.</u>	384
	<u>R. v. Greenlaw</u>	387
	<u>R. v. Meston</u>	387
	<u>Sokolowski v. R.</u>	387
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	388
C.	Common Intention	389
	<u>R. v. Maier and Clark</u>	389
	<u>R. v. Trineer</u>	390
	<u>R. v. Riezebos</u>	393
	<u>R. v. Harris</u>	395

V.	First Degree Murder	398
	<u>Droste v. R.</u>	398
	<u>R. v. Stevens</u>	398
	<u>R. v. Nygaard</u>	399
	<u>R. v. Munro and Munro</u>	399
	<u>R. v. Collins</u>	400
	<u>R. v. Prevost</u>	403
	<u>R. v. Woods and Gruener</u>	406
	<u>R. v. Dollan and Newstead</u>	406
	<u>R. v. Paré</u>	406
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	408
7	THE MENTAL STATE: REQUIREMENTS OF CULPABILITY	410
	<u>R. v. Tolson</u>	410
	Excerpt from "English Law Commission Working Paper No. 31, The Mental Element in Crime"	411
	Excerpt from "The Criminal Law in Canadian Society"	411
I.	Model Penal Code and other Legislative Solutions	412
	Excerpt from "A.L.I. Model Penal Code"	412
	Excerpt from "The Model Penal Code" (Lecture by Prof. Wechsler)	413
	Excerpt from "New York Revised Penal Law"	414
	Excerpt from "English Law Commission's Working Paper No. 31, The Mental Element in Crime"	415
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	416
II.	Intent	417
	<u>R. v. Steane</u>	417

	<u>Dunbar v. R.</u>	420
	<u>Paquette v. R.</u>	421
	<u>R. v. George</u>	425
III.	Recklessness / Criminal Negligence	430
	<u>R. v. Titchner</u>	430
	<u>Leblanc v. R.</u>	432
	<u>R. v. Caldwell</u>	432
	<u>R. v. Lawrence</u>	433
	<u>R. v. Tutton and Tutton</u>	433
IV.	Presumed Intent	442
	Problem	442
	<u>D.P.P. v. Smith</u>	442
	<u>Parker v. R.</u>	444
	Excerpt from "Criminal Justice Act"	444
	<u>Hyam v. D.P.P.</u>	445
	<u>R. v. Hughes</u>	445
	<u>R. v. Tennant and Naccarato</u>	445
	<u>R. v. Quaranta</u>	447
	<u>R. v. DeWolfe</u>	448
	<u>R. v. Vasil</u>	453
	<u>R. v. Chabot</u>	457
8	STRICT RESPONSIBILITY	458
	<u>R. v. Ping Yuen</u>	458
	<u>R. v. Regina Cold Storage & Forwarding Co. Ltd.</u>	461
	<u>Beaver v. R.</u>	463

<u>R. v. Pierce Fisheries Ltd.</u>	473
Excerpt from "Studies in Criminal Law"	474
<u>R. v. City of Sault Ste. Marie</u>	477
<u>Strasser v. Roberge</u>	482
<u>R. v. Chapin</u>	483
<u>Reference Re Section 94(2) of the Motor Vehicle Act</u>	484
<u>R. v. Metro News Ltd.</u>	487
<u>Stevens v. R.</u>	490
Problem	492

9

MISTAKE OF FACT 495

<u>R. v. Prince</u>	495
<u>R. v. Rees</u>	499
<u>D.P.P. v. Morgan</u>	502
<u>Pappajohn v. R.</u>	503
<u>Sansregret v. R.</u>	510
<u>Laybourn, Bulmer and Illingworth v. R.</u>	511
<u>R. v. Ladue</u>	513
<u>R. v. Burgess</u>	515
<u>R. v. Kundeus</u>	516
Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	518

10

IGNORANCE OF THE LAW 520

<u>R. v. Bailey</u>	520
<u>R. v. Esop</u>	522

<u>R. v. Ross</u>	522
Excerpt from "The Ontario Regulations Act"	525
Excerpt from "The Statutory Instruments Act"	525
<u>Molis v. R.</u>	526
<u>R. ex. rel. Irwin v. Dalley</u>	526
<u>R. v. Richardson</u>	528
<u>R. v. Prue and Baril</u>	528
<u>R. v. MacDougall</u>	529
<u>Boggs v. R.</u>	530
<u>R. v. Campbell and Mlynarchuk</u>	530
<u>R. v. MacIntyre</u>	536
<u>R. v. Maclean</u>	536
Excerpt from "National Security: The Legal Dimensions"	536
<u>R. v. Cancoil Thermal Corporation and Parkinson</u>	537
<u>R. v. Howson</u>	538
<u>R. v. Shymkovich</u>	540
Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	541

CORPORATE LIABILITY	543
<u>R. v. Fane Robinson Ltd.</u>	543
<u>R. v. Andrews Weatherfoil Ltd</u>	547
<u>R. v. Waterloo Mercury Sales Ltd.</u>	549
<u>R. v. McNamara</u>	551
<u>Canadian Dredge and Dock Co. Ltd. v. R.</u>	554
<u>R. v. N.M. Paterson & Sons Ltd.</u>	559

Volume Three

DEFENCES AND DISPOSITIONS

12	DRUNKENNESS	560
	Problem	560
	<u>D.P.P. v. Beard</u>	561
I.	Expert Evidence on Issue of Drunkenness	569
	<u>Fisher v. R.</u>	569
	<u>R. v. Sequin</u>	572
	<u>Young v. R.</u>	573
II.	Drunkenness and Specific Intent	574
	<u>D.P.P. v. Majewski</u>	574
	<u>Leary v. R.</u>	578
	<u>R. v. Moreau</u>	581
	<u>Swietlinski v. R.</u>	582
	<u>Cooper v. R.</u>	582
	<u>Bernard v. R.</u>	583
	<u>R. v. Quinn</u>	591
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	591
13	INSANITY	593
I.	Stages of Criminal Process in Which Insanity May be Relevant	593
A.	Certification Before Trial	593
	Excerpt from "Mental Health Act" (Ontario)	593

B.	Fitness to Stand Trial	596
	Excerpt from "Criminal Code"	596
	Excerpt from "Mental Health Act"	597
	Excerpt from "Ouimet Report"	598
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	598
C.	Insanity as a Defence	599
	Excerpt from "Criminal Code"	599
	Excerpt from "L.R.C. Report, Mental Disorder in the Criminal Process"	600
	<u>R. v. Saxell</u>	600
	<u>R. v. Swain</u>	601
	<u>Jones v. United States</u>	603
D.	Who Can Raise the Insanity Issue	603
	<u>R. v. Simpson</u>	603
	<u>R. v. Saxell</u>	604
E.	Effect on a Requisite Mental State	605
	<u>More v. R.</u>	605
	<u>R. v. Baltzer</u>	606
	<u>R. v. Wright</u>	607
F.	Sentence	607
	Excerpt from "Enforcing the Law"	607
	Excerpt from the "Ouimet Report"	609
	Excerpt from "L.R.C. Report, Mental Disorder in the Criminal Process"	609
	<u>R. v. Boomhower</u>	609
	<u>R. v. Deans</u>	609
	Excerpt from "Criminal Code"	610

G.	Transfer from Penal Institution to Mental Hospital	610
	Excerpt from "Criminal Code"	610
	Excerpt from "Penitentiary Act"	611
H.	Executive Clemency	611
	Excerpt from "Report of the Royal Commission on the Law of Insanity as a Defence in Criminal Cases"	611
II.	Insanity as a Defence	612
	Problem	612
	<u>M'Naghten's Case</u>	615
	<u>R. v. Simpson</u>	619
	<u>Cooper v. R.</u>	620
	<u>R. v. Windle</u>	621
	<u>R. v. Codere</u>	623
	Excerpt from "Report of the Royal Commission on the Law of Insanity as a Defence in Criminal Cases"	624
	<u>Schwartz v. R.</u>	632
	<u>Cooper v. R.</u>	637
	<u>R. v. Kjeldsen</u>	639
	<u>R. v. Simpson</u>	639
	<u>R. v. Abbey</u>	639
	<u>R. v. Kirkby</u>	642
	Excerpt from "L.R.C. Working Paper 29, Criminal Law, The General Part: Liability and Defences"	644
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	644
III.	Alternatives to M'Naghten	645
	<u>Durham v. United States</u>	645
	Excerpt from "A.L.I. Model Penal Code"	648

	<u>Browner</u>	648
	Excerpt from "New York Revised Penal Law"	652
	Excerpt from "Insanity Defence Reform Act of 1984"	652
	Excerpt from "Abolish the Insanity Defence - Why Not?"	652
	Excerpt from article by Alan Dershowitz	652
IV.	Form of Expert Testimony	655
	<u>Bleta v. R.</u>	655
14	AUTOMATISM	659
	Problem	659
	<u>R. v. Hartridge</u>	659
I.	Conviction for Causing Death	660
	<u>Fain v. Commonwealth of Kentucky</u>	660
	Excerpt from "The Toronto Star"	663
	<u>R. v. Shaw</u>	664
II.	Proving Automatism	665
	<u>Hill v. Baxter</u>	665
III.	Relation to Insanity	668
	<u>R. v. Charlson</u>	668
	<u>R. v. Kemp</u>	671
	<u>R. v. Quick</u>	672
	<u>R. v. Bailey</u>	675
	<u>R. v. Sullivan</u>	675
	<u>R. v. Hartridge</u>	676
	<u>R. v. Revelle</u>	677
	<u>R. v. K</u>	677

	<u>Rabey v. R.</u>	682
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	688
IV.	Provocation	689
	<u>Salamon v. R.</u>	689
	<u>Bedder v. D.P.P.</u>	692
	<u>D.P.P. v. Camplin</u>	695
	<u>R. v. Hill</u>	696
	<u>R. v. Galgay</u>	701
	<u>R. v. Cunningham</u>	702
	<u>R. v. Nealy</u>	703
15	SOME ASPECTS OF EXCUSABLE CONDUCT: NECESSITY, DURESS, AND SELF-DEFENCE	705
I.	Necessity	705
	<u>United States v. Holmes</u>	705
	<u>R. v. Dudley and Stephens</u>	711
	<u>Morgentaler v. R.</u> (1975)	715
	<u>Perka v. R.</u>	720
	<u>R. v. Morgentaler</u> (1985)	725
	Excerpt from "A.L.I. Model Penal Code"	726
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	726
II.	Duress	727
	Excerpt from "Criminal Code"	727
	Excerpt from "A.L.I. Model Penal Code"	728
	<u>R. v. Carker</u>	728
	<u>R. v. Hudson and Taylor</u>	732

	<u>R. v. Morrison and McQueen</u>	733
	<u>Abbott v. R.</u>	734
	<u>R. v. Howe</u>	736
	Excerpt from "English Law Commission Working Paper No. 55"	737
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	737
III.	Self-Defence	738
	<u>Brown v. United States</u>	738
	<u>R. v. Reilly</u>	739
	<u>Brisson v. R.</u>	739
	<u>R. v. Faid</u>	740
	<u>R. v. Ebsary</u>	741
	<u>People v. Goetz</u>	743
	Excerpt from "A Crime of Self-Defense"	745
	<u>Beckford v. R.</u>	747
	Excerpt from "Criminal Code"	748
	Excerpt from "L.R.C. Report 31, Recodifying Criminal Law"	749
16	DOUBLE JEOPARDY	750
	Excerpt from the "Charter of Rights and Freedoms"	750
	<u>Green v. United States</u>	750
	<u>R. v. Shubley</u>	751
I.	Early Termination	753
	<u>R. v. Karpinsky</u>	753
	<u>R. v. T.C.D.</u>	755
	<u>Re Parkin and The Queen</u>	756
	<u>R. v. Moore</u>	757

II.	When Will a Dismissal be a Bar?	759
	<u>R. v. Riddle</u>	759
	<u>Petersen v. R.</u>	762
	<u>R. v. Conrad</u>	763
	<u>R. v. Tateham</u>	763
III.	The Special Pleas	764
	<u>R. v. Barron</u>	764
	<u>R. v. Rinnie</u>	766
	<u>Luckett v. R.</u>	768
IV.	Issue Estoppel	769
	<u>R. v. Carlson</u>	769
	<u>R. v. Feeley, McDermott and Wright</u>	775
	<u>R. v. Gushue</u> (1973)	776
	<u>R. v. Gushue</u> (1976)	778
	<u>Gushue v. R.</u> (1979)	781
	<u>Grdic v. R.</u>	783
	<u>R. v. Segal</u>	784
	<u>R. v. Elmosri</u>	784
	<u>R. v. McShannock</u>	785
V.	Splitting a Case	786
	<u>Connelly v. D.P.P.</u>	786
	<u>R. v. Osborn</u>	790
	<u>Rourke v. R.</u>	791
	<u>R. v. Jewitt</u>	793
	<u>R. v. B.</u>	795

VI.	Multiple Convictions	797
	<u>Kienapple v. R.</u>	797
	<u>Côté v. R.</u>	797
	<u>Sheppe v. R.</u>	798
	<u>R. v. Hagenlocher</u>	798
	<u>Krug v. R.</u>	798
	<u>R. v. Prince</u>	799
	<u>R. v. Wigman</u>	801
VII.	Appeals and New Trials	802
	Excerpt from "Report of the Departmental Committee on New Trials in Criminal cases"	802
	<u>Vezeau v. R.</u>	803
	<u>R. v. Morin</u>	804
	<u>Hill v. R.</u>	805
	<u>Guillemette v. R.</u>	805
	<u>R. v. Century 21 Ramos Realty</u>	805
VIII.	Problems in a Divided Jurisdiction	807
	<u>R. v. Kissick</u>	807
	<u>United States v. Lanza</u>	809
	<u>Abbate v. United States</u>	809
	<u>Bartkus v. Illinois</u>	810
17	SENTENCING	811
I.	Problems	811
II.	Cases on Sentencing	813
	<u>R. v. Pearce</u>	813

<u>R. v. Healey</u>	816
<u>R. v. Hinch and Salanski</u>	818
<u>R. v. Sumarah</u>	824
<u>R. v. Morrisette</u>	828
<u>R. v. Sandercock</u>	832
Prototype Sentencing Guideline	836
<u>R. v. Ebsary</u>	840
<u>R. v. Gardiner</u>	842
<u>Re B.C. Motor Vehicles</u>	844
<u>R. v. Smith</u>	846
<u>R. v. Mitchell</u>	848
<u>R. v. Lyons</u>	848
<u>R. v. Milne</u>	849
<u>R. v. Zelensky</u>	850
<u>R. v. Wilcox</u>	851
<u>R. v. Hebb</u>	853
<u>R. v. Fireman</u>	857
<u>R. v. Naquitaruik</u>	860
III. Readings in Sentencing Policy and Reform	864
Excerpt from the Report of the Canadian Sentencing Commission	864